

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

MICHELLE DENISE HOWARD

PLAINTIFF

v.

Case No. 4:19-cv-4011

PAM CHERRY, *et al.*

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed September 30, 2019, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. ECF No. 34. Judge Bryant recommends that all claims against Separate Defendant Pam Cherry in her individual and official capacities be dismissed. Plaintiff has responded with objections. ECF No. 36. The Court finds the matter ripe for consideration.

On January 30, 2016, Plaintiff, representing herself, filed the complaint in this matter. Plaintiff alleges that Pam Cherry, an Arkansas Department of Human Services (“DHS”) family caseworker, defamed Plaintiff after DHS took custody of her child. Plaintiff claims that Cherry defamed her when Cherry presented evidence to the state trial court regarding the welfare of Plaintiff’s child. Judge Bryant recommends that the defamation claims against Separate Defendant Cherry be dismissed because these claims are not actionable under 28 U.S.C. § 1983. *See Paul v. Davis*, 424 U.S. 693, 711-12 (1976); *Miner v. Brackney*, 719 F.2d 954, 955 (1983) (“Claims for defamation and slander are not cognizable under [section] 1983.”). Further, assuming Plaintiff is attempting to assert a defamation claim under state law, Judge Bryant recommends that these claims be dismissed because the Court lacks subject matter jurisdiction over these claims.

In her objections, Plaintiff does not address Judge Bryant’s findings that defamation claims are not actionable under 28 U.S.C. § 1983 and that the Court lacks subject matter jurisdiction over

defamation claims based on state law. The Court agrees with Judge Bryant's findings and recommendation that Plaintiff's claims against Separate Defendant Cherry be dismissed.

Accordingly, based on its own de novo review, the Court overrules Plaintiff's objections and adopts the Report and Recommendation *in toto*. ECF No. 34. All claims against Separate Defendant Pam Cherry are **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED, this 12th day of December, 2019.

/s/ Susan O. Hickey
Susan O. Hickey
Chief United States District Judge